

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAMON MYRON GARDNER,

Plaintiff,

Case No. 11-11380

v.

Honorable Patrick J. Duggan

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**OPINION AND ORDER**

At a session of said Court, held in the U.S.  
District Courthouse, Eastern District  
of Michigan, on November 15, 2011.

PRESENT: THE HONORABLE PATRICK J. DUGGAN  
U.S. DISTRICT COURT JUDGE

On April 1, 2011, Damon Gardner (“Plaintiff”) filed this *pro se* action, challenging a final decision of Defendant Commissioner of Social Security (“the Commissioner”) denying Plaintiff’s application for Disability Insurance Benefits. The Commissioner filed a motion to dismiss, arguing that the 60-day limitations period set forth in 42 U.S.C. § 405(g) bars Plaintiff’s claim. The Court referred the motion to Magistrate Judge Charles E. Binder.

On September 8, 2011, Magistrate Judge Binder filed a Report and Recommendation (“R&R”) in which he recommends that this Court grant the Commissioner’s motion. At the conclusion of the R&R, Magistrate Judge Binder advises the parties that they may

object and seek review of the R&R within fourteen days of service upon them. R&R 5. He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” *Id.* (citing *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466 (1985); *Frontier Ins. Co. v. Blaty*, 454 F.3d 590, 596 (6th Cir. 2006); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005)). Neither party has filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Binder.

Accordingly,

**IT IS ORDERED** that the Commissioner’s motion to dismiss is **GRANTED**.

s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

Copies to:

Laura A. Sagolla, A.U.S.A.

Damon Myron Gardner  
252 Monterey St.  
Highland Park, MI 48203